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Recommended Citation

Bruchac, M. (2013). Art or Patrimony? Indigenous Objects in the International Art Market. *Anthropology News*, 54 (7-8), Retrieved from http://repository.upenn.edu/anthro_papers/119

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Keywords

Museum Anthropology, Protection of Cultural Heritage from Illicit Trafficking, Repatriation of Antiquities, and Museums and Heritage

Disciplines

Anthropology | Social and Behavioral Sciences

COUNCIL FOR MUSEUM ANTHROPOLOGY

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Margaret M Bruchac



The [April 12, 2013 Drouot-Richelieu auction](#) of 70 Hopi *Katsinam* (ritual masks) in Paris highlighted long-standing concerns over sales of Indigenous cultural heritage in the art market. These Hopi *Katsinam*, like many other high-value Indigenous objects, entered the market in the early twentieth century, through the hands of collectors who blurred boundaries between sacred and secular, tribal and private property. At present, despite modern legislation designed to prevent the further alienation and sale of items of cultural patrimony (e.g. the [1970 UNESCO Convention](#) and the [1990 Native American Graves Protection and Repatriation Act](#)), the traffic in Indigenous heritage continues. This particular dispute raises questions over not only who “owns” Native American objects, but who determines what constitutes Indigenous “art.”

This determination is key; if efforts at repatriation are to succeed, sacred objects must be recognized not just as aesthetically beautiful, but as patrimonial. Determinations of identity, authenticity, ownership, and sacredness should, ideally, rest upon expert opinion and culturally-informed analysis. Under UNESCO, NAGPRA, and United Nations protocols, museums are expected to consult with Indigenous knowledge-bearers; such consultations have often led to improved understandings of culturally-sensitive materials and better relations with Indigenous communities. The culture of private collecting, however, encourages the circulation and display of Indigenous objects as collectibles with limited tribal context. Art dealers and auction houses are not legally compelled to consult with (or even listen to) Indigenous claimants. In the case of the *Katsinam*, the property rights and opinions of agents who trade in Indigenous artifacts were given precedence over the wisdom of Indigenous experts and museum professionals who unambiguously identified these Hopi *Katsinam* as both sacred and patrimonial.

In the art market, Indigenous sacred and patrimonial items are often advertised as “art” and displayed in ways that can obscure or contradict the agency and intentions of the original Indigenous owners. Counter-factual re-naming practices distract from the facts of Indigenous provenance. Even in cases where the records suggest improper removals or thefts, collectors seem to imagine that tribal patrimony transforms into “private property” when physically removed from tribal custody. These perceptions hamper repatriation efforts. In the case of the *Katsinam*, a French judge, Magali Bouvier, ruled that the auction could proceed as planned, despite the contested cultural claims. His primary concern was not that Indigenous cultural heritage was at risk, but that Indigenous claims to property might interfere with the circulation of, and lucrative free trade in, indigenous art objects. This stance only perpetuates an ethically-fraught industry.

It should be noted that Indigenous “art” has meanings that extend well beyond the limitations of the art market. Traditionally, Indigenous artisans constructed objects that combined elements of sacredness and beauty, rendering them both artistic and patrimonial. In modern contexts, Indigenous people have also used the category of “art” as an expression of sovereignty, by claiming space in the elite galleries that house European artworks. As Howard Morphy (Australian National U) notes, “Indigenous Australians have long argued for the identification of their cultural production as ‘art’ worthy of inclusion in art galleries. These Aboriginal artists would resist any definition of their work as non-art, since it might jeopardize their hard-won inclusion in the contemporary artworld.” In Australian contexts, Morphy observes, “the moral imperative to repatriate may be just as great in the case of works designated to be works of art as those designated as sacred or foundational objects. Works that are considered to be sacred or spiritually powerful can be made for sale or gifted to outsiders who acknowledge and respect their spiritual significance.” In these cases, recipients of Aboriginal art are invited into a curatorial relationship mediated by Indigenous artists.

Kathleen Adams (Loyola U) sees parallels between the sales of Hopi *Katsinam* and Toraja *tau-tau* (effigies of the dead). “The rising value of Indonesian Indigenous arts has led to widespread robbing of Toraja grave sites, sales of stolen effigies in ethnic arts galleries, and what anthropologist Eric Crystal has termed the ‘rape of Toraja culture.’” Adams notes an increase in the “faking industry” among certain Toraja carvers who “manage to pass their fakes off as the real thing.” For some, this is an expedient way to make a living; hopefully, it will also prevent future robberies. Like Australian artists, Toraja carvers are proud to claim the respect that comes from classifying their works as “art.” Yet, as Adams observes, “the Torajas I know do not want their ritually-consecrated grave effigies turning up on the international art market. By definition, effigies heralded as ‘authentic’ (and therefore valuable to collectors) are stolen.” The Bowers Museum, Brooklyn Museum, and Dallas Museum of Art have all purchased authentic *tau-tau*. Adams has worked with Toraja carvers to place unconsecrated *tau-tau* reproductions into the Field Museum and Burke Museum collections as tools to educate the public about these distressing issues.



Tau-tau effigies were considered both visual embodiments and soul receptacles for the deceased. Several effigies photographed at this family burial cave in 1984 were later stolen. Photo courtesy Kathleen M Adams

Private dealers have much to learn from museum professionals who have been compelled to consider the ethics of their practice, recognizing that cultural heritage is endangered by unchecked free trade in artifacts. Indigenous peoples have reclaimed some items from museums, but they have also given back by educating curators, developing more culturally appropriate displays, restoring contextual data, and contributing art objects to museums. Cultural integrity is ensured and respect is generated through new reciprocal relationships that form around these Indigenous objects. This progress must not be undercut by decisions that emphasize monetary value and ignore the wisdom of cultural experts.

As Christina Kreps (U Denver) noted in her review of Kate Fitz Gibbon, ed., *Who Owns the Past? Cultural Property and the Law* (Rutgers 2005), “academic and museum anthropologists should not sit idly by and let those who possess the most power and resources ultimately determine the answer to this question. Current national and international legislation and policy was enacted to redress wrongs of the past and counter-balance the dominance of certain world powers and commercial interests...we need to keep the debate going and dialogue open to find workable solutions that include multiple voices, perspectives, and interests” (*Museum Anthropology Review* 2007). It is long past time for art dealers, auction houses, and private collectors to reconsider the ethics of their trade, and participate in this conversation.



The tau-tau effigy of Nenek Toding Sarungallo, posed at her funeral in July 2012. Photo courtesy Kathleen M Adams

UPDATE: A subsequent Drouot-Richelieu Paris auction of ritual masks from the American southwest was held in December 2013. The auction went forward, despite legal appeals and protests, including a plea from the US Embassy to consider the protocols of the 1970 UNESCO Convention on the Export and Transfer of Cultural Property. Gregory Annenberg Weingarten, of the Annenberg Foundation, stepped in, paying \$530,000 to purchase 24 Native American ritual masks, in order to repatriate them directly to the Hopi Nation in Arizona and the San Carlos Apache tribe. Although this resolution offered a clear path to repatriation, it also reaffirms the high monetary value of indigenous cultural property in the art market.

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